

PART 412—ACCEPTANCE OF PAYMENT FROM A NON-FEDERAL SOURCE FOR TRAVEL EXPENSES

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AUTHORITY: 5 U.S.C. 5701–5709; 12 U.S.C. 635(2)(a)(1).

SOURCE: 59 FR 31136, June 17, 1994, unless otherwise noted.

§ 412.1 Authority.

This part is issued under the authority of 5 U.S.C. 553, 5 U.S.C. 5701–5709 and 12 U.S.C. 635(2)(a)(1).

§ 412.3 General.

(a) *Applicability.* This part applies to acceptance by the Export-Import Bank of the United States (Eximbank) of payment from a non-Federal source for travel, subsistence, and related expenses with respect to the attendance of an employee in a travel status at any meeting or similar event relating to the official duties of the employee, other than those described in 41 CFR 304–1.2. This part does not authorize acceptance of such payments by an employee in his/her personal capacity.

(b) *Solicitation prohibited.* An employee shall not solicit payment for travel, subsistence and related expenses from a non-Federal source. However, after receipt of an invitation from a non-Federal source to attend a meeting or similar event, Eximbank or the employee may inform the non-Federal source of this authority.

(c) *Definitions.* As used in this part, the following definitions apply:

(1) *Conflicting non-Federal source.* *Conflicting non-Federal source* means any person who, or entity other than the Government of the United States which, has interests that may be substantially affected by the performance or nonperformance of the employee's duties.

(2) *Employee.* *Employee* means any director, officer or other employee of Eximbank.

(3) *Meeting or similar event.* *Meeting or similar event* means a meeting, formal gathering, site visit, negotiation session or similar event that takes place away from the employee's official station and which is directly related to the mission of Eximbank. This term does not include any meeting or similar function described in 41 CFR 304–1.2 or sponsored by Eximbank. A meeting or similar event need not be widely attended for purposes of this definition.

(4) *Non-Federal source.* *Non-Federal source* means any person or entity other than the Government of the United States. The term includes any individual, private or commercial entity, nonprofit organization or association, state, local, or foreign government, or international or multinational organization.

(5) *Payment.* *Payment* means funds paid or reimbursed to Eximbank by a non-Federal source for travel, subsistence, and related expenses by check or similar instrument, or payment in kind.

(6) *Payment in kind.* *Payment in kind* means goods, services or other benefits provided by a non-Federal source for travel, subsistence, and related expenses in lieu of funds paid to Eximbank by check or similar instrument for the same purpose.

(7) *Travel, subsistence and related expenses.* *Travel, subsistence and related expenses* means the same types of expenses payable under 41 CFR chapter 301.

§ 412.5 Policy.

As provided in this part, Eximbank may accept payment from a non-Federal source (or authorize an employee to receive such payment on its behalf) with respect to attendance of the employee at a meeting or similar event which the employee has been authorized to attend in an official capacity on behalf of Eximbank. The employee's immediate supervisor and Eximbank's designated agency ethics official or his/her designee (DAEO) must approve any offer and acceptance of payment under this part in accordance with the procedures described below. If the employee is a member of Eximbank's Board of Directors, only the DAEO's approval is required. Any employee authorized to

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travel in accordance with this part is subject to the maximum per diem or actual subsistence expense rates and transportation class of service limitations prescribed in 41 CFR chapter 301.

§ 412.7 Conditions for acceptance.

(a) Eximbank may accept payment for employee travel from a non-Federal source when a written authorization to accept payment is issued in advance of the travel following a determination by the employee's supervisor (except in the case of Board members) and the DAEO that the payment is:

(1) For travel relating to an employee's official duties under an official travel authorization issued to the employee;

(2) For attendance at a meeting or similar event as defined in § 412.3(c)(3):

(i) In which the employee's participation is necessary in order to further the mission of Eximbank;

(ii) Which cannot be held at the offices of Eximbank for justifiable business reasons in light of the location and number of participants and the purpose of the meeting or similar event; and

(iii) Which is taking place at a location and for a period of time that is appropriate for the purpose of the meeting or similar event;

(3) From a non-Federal source that is not a conflicting non-Federal source or from a conflicting non-Federal source that has been approved under § 412.9; and

(4) In an amount which does not exceed the maximum per diem or actual subsistence expense rates and transportation class of service limitations prescribed in 41 CFR chapter 301.

(b) An employee requesting approval of payment of travel expenses by a non-Federal source under this part shall submit to the employee's supervisor (except in the case of Board members) and the DAEO a written description of the following: the nature of the meeting or similar event and the reason that it cannot be held at Eximbank, the date(s) and location of the meeting or similar event, the identities of all participants in the meeting or similar event, the name of the non-Federal source offering to make the payment, the amount and method of the pro-

posed payment, and the nature of the expenses.

(c) Payments may be accepted from multiple sources under paragraph (a) of this section.

§ 412.9 Conflict of interest analysis.

Eximbank may accept payment from a conflicting non-Federal source if the conditions of § 412.7 are met and the employee's supervisor (except in the case of Board members) and the DAEO determine that Eximbank's interest in the employee's attendance at or participation in the meeting or similar event outweighs concern that acceptance of the payment by Eximbank may cause a reasonable person to question the integrity of Eximbank's programs and operations. In determining whether to accept payment, Eximbank shall consider all relevant factors, including the purpose of the meeting or similar event, the importance of the travel for Eximbank, the nature and sensitivity of any pending matter affecting the interests of the conflicting non-Federal source, the significance of the employee's role in any such matter, the identity of other expected participants, and the location and duration of the meeting or similar event.

§ 412.11 Payment guidelines.

(a) Payments from a non-Federal source, other than payments in kind, shall be by check or similar instrument made payable to Eximbank. Payments from a non-Federal source, including payments in kind, are subject to the maximum per diem or actual subsistence expense rates and transportation class of service limitations prescribed in 41 CFR chapter 301.

(b) If Eximbank determines in advance of the travel that a payment covers some but not all of the per diem costs to be incurred by the employee, Eximbank shall authorize a reduced per diem rate, in accordance with 41 CFR part 301-7.12.

§ 412.13 Limitations and penalties.

(a) This part is in addition to and not in place of any other authority under which Eximbank may accept payment from a non-Federal source or authorize an employee to accept such payment on behalf of Eximbank. This part shall

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not be applied in connection with the acceptance by Eximbank of payment for travel, subsistence, and related expenses incurred by an employee to attend a meeting or similar function described in and authorized by 41 CFR part 304–1.

(b) An employee who accepts any payment in violation of this part is subject to the following:

(1) The employee may be required, in addition to any penalty provided by law and applicable regulations, to repay for deposit to the general fund of the Treasury, an amount equal to the amount of the payment so accepted; and

(2) When repayment is required under paragraph (b)(1) of this section, the employee shall not be entitled to any payment or reimbursement from Eximbank for such expenses.

PART 413—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

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